

REMARKS

Summary

Claim 32 is rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4, 7, 15-21, 23, 26-29, and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0102662 to Samsolovic et al. ("Samsolovic") in view of U.S. Patent Application Publication No. 2004/0123282 to Rao et al. ("Rao").

Claims 5 and 6 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2005/0060361 to Chatrath et al. ("Chatrath").

Claims 8-14 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 21 and 22 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 24 and 25 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 30 and 31 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 33 and 34 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

By this amendment, Applicant has canceled claims 9, 24, 25, 33, 34 without prejudice or disclaimer. Therefore, the rejections to these claims are now moot. Applicant has amended claims 1-3, 6-8, 10, 11, 13--23, 26-28, and 32.

Regarding claim rejection under 35 U.S.C 112

Claim 32 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner asserts that “the meaning of the phrase ‘said management server a corresponding software update package’ is unclear.” Office Action, page 2.

Without agreeing with, or acquiescing to, the Examiner’s rejection, Applicant has amended claim 32 to address the Examiner’s concerns in an attempt to expedite prosecution. No new matter has been introduced. Reconsideration and withdrawal of the rejection of pending claim 32 under 35 U.S.C. § 112, second paragraph in light of the foregoing amendment is respectfully requested.

Regarding claim rejections under 35 U.S.C. 103(a)

A. Claims 1-4, 7, 15-21, 23, 26-29, and 32

Claims 1-4, 7, 15-21, 23, 26-29, and 32 are rejected under 35 U.S.C.103(a) as being unpatentable over Samsolovic in view of Rao. These rejections are respectfully traversed in light of the amendments and remarks set forth herein because no *prima facie* case of obviousness is established. The Examiner has not properly resolved the

Graham factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. See MPEP § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

By this Amendment, Applicant has amended claim 1 to more clearly illustrate the differences between the cited references and the pending claims. Applicant maintains that the Examiner has not properly determined the scope and content of the prior art, and has not properly ascertained the differences between the claimed invention and the prior art, at least because he has not interpreted the prior art and considered both the invention and the prior art as a whole. See MPEP § 2141(II)(B).

Claim 1 as amended recites a method for reporting terminal information including, *inter alia*, a combination of “upon receiving said terminal information, judging, by said DM Server, whether the terminal device can be maintained automatically; if it is judged that the terminal device can be maintained automatically, maintaining, by said DM Server, the terminal device following an Open Mobile Alliance (OMA) DM process; otherwise reporting, by said DM Server, said terminal information to a Maintenance Unit (MU).”

Samsolovic is directed to a system and method for updating or upgrading a client's device. Samsolovic, para. [0006]. Samolovic discloses a client-server updating scenario, where “the client or device is capable of identifying itself to a server and sending appropriate information to the server that is contacted. ... [t]he server 14 authenticates the client 12 and can send information, such as upgrades and

configuration data, to the client 12 as detailed below. The server provides updates, which is required for continuous operation, as well as current information to the client 12.” *Id.* para. [0014]. Samolovic, however, fails to disclose a combination of “... judging, by said DM Server, whether the terminal device can be maintained automatically; if it is judged that the terminal device can be maintained automatically, maintaining, by said DM Server, the terminal device following an Open Mobile Alliance (OMA) DM process; otherwise reporting, by said DM Server, said terminal information to a Maintenance Unit (MU),” as recited in amended claim 1.

In rejecting claim 9, the Examiner asserts that FIG. 2, and paragraph [0021], lines 6-15 of Samsolovic, which illustrate client 12 being able to contact the parent server 12 to determine the latest update information, disclose the “upon receiving said terminal information, judging, by said DM Server, whether the terminal device can be maintained automatically,” as recited in original claim 9. Applicant respectfully disagrees with the Examiner’s assertion. The cited passage in Samsolovic discloses:

Once the client contacts that parent server, then the client is able to obtain and download updates as determined by the information stored in the device relative to the most current information maintained by the updater.

Samsolovic, para. [0021].

This disclosure fails to teach “judging, by said DM Server, whether the terminal device can be maintained automatically,” as recited in original claim 9. In Samsolovic, the parent server 12 (or the updater) provides the client 12 with the latest information.

Samsolovic fails to disclose a server that judges whether the terminal device can be maintained automatically.

Rao fails to cure the deficiencies of Samsolovic. Similarly to Samsolovic, Rao discloses a method for updating an electronic device. However, Rao also fails to disclose a combination including "... judging, by said DM Server, whether the terminal device can be maintained automatically; if it is judged that the terminal device can be maintained automatically, maintaining, by said DM Server, the terminal device following an Open Mobile Alliance (OMA) DM process; otherwise reporting, by said DM Server, said terminal information to a Maintenance Unit (MU)."

As explained above, the elements recited in claim 1 are neither taught nor suggested by the applied references. Nor has the Examiner explained how teachings of the references could have been modified to achieve the claimed combination. Consequently, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Accordingly, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in the art in view of the prior art. Therefore, a *prima facie* case of obviousness has not been established for claim 1.

For at least the above reasons, claim 1 should be allowable. Independent claims 15, 17, 23, 26, and 32, although of different scope, recite elements similar to those recited in claim 1. For similar reasons, independent claims 15, 17, 23, 26, and 32 should be allowable over Samsolovic in view of Rao. Dependent claims 2-4, 7, 16, 18-21, and 27-31 are also allowable at least due to their dependency from their base independent claims.

B. Claims 5 and 6

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 5 and 6 depend from claim 1 and include all of the elements of claim 1. As discussed above, Samsolovic and Rao, considered alone or in combination, fail to disclose or suggest a combination of "... judging, by said DM Server, whether the terminal device can be maintained automatically; if it is judged that the terminal device can be maintained automatically, maintaining, by said DM Server, the terminal device following an Open Mobile Alliance (OMA) DM process; otherwise reporting, by said DM Server, said terminal information to a Maintenance Unit (MU)," as recited in claim 1. Chatrath, which was cited as allegedly teaching a terminal is able to communicate terminal information with a server via an extended open mobile alliance protocol, fails to cure the deficiency of Samsolovic and Rao. Therefore, claim 1 is patentable over Samsolovic in view of Rao and further in view of Chatrath. Dependent claims 5 and 6 are also patentable over the applied references at least due to their dependency from claim 1.

C. Claims 8 and 10-14

Claims 8 and 10-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Independent claim 8 recites a combination of "judging, by said DM Server, whether the terminal device can be maintained automatically; if it is judged that the

terminal device can be maintained automatically, maintaining, by said DM Server, the terminal device with said software update package following an OMA DM process; otherwise reporting, by said DM Server, said terminal information to a Maintenance Unit (MU).” As discussed above, the applied references Samsolovic, Rao, and Chatrath, considered alone or in combination, fails to disclose such a combination. Therefore, claim 8 is patentable over the applied references. Claims 10-14 ultimately depend from claim 8 and include all of the elements of claim 8. Therefore, claims 10-14 are patentable at least due to their dependency from claim 8.

D. Claims 21 and 22

Claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Samsolovic in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 21 and 22 depend from claim 17 and include all of the elements of claim 17. Claim 17 recites a combination that “said management server is further configured to judge whether said terminal can be maintained automatically; if it is judged that the terminal can be maintained automatically, said management server maintains said terminal following OMA DM process; otherwise, said management server sends error information of said terminal to a maintenance unit.” As discussed above, Samsolovic, Rao, and Chatrath, considered alone or in combination, fail to disclose such a combination. Therefore, claim 17 is patentable over the applied references. Claims 21 and 22 ultimately depend from claim 17 and therefore, are patentable over these references at least due to their dependency from claim 17.

E. Claims 30 and 31

Claims 30 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Samsolovic et.al in view of Rao as applied to claim 1 above, and further in view of Chatrath.

Claims 30 and 31 depend from claim 26 and include all of the elements of claim 26. Claim 26 recites a combination of "..., judging, by said management Server, whether the terminal can be maintained automatically; if it is judged that the terminal device can be maintained automatically, said management server maintaining the terminal following an OMA DM process; otherwise said management server reporting said information of the terminal to a Maintenance Unit (MU)," which is similar to the elements of claim 1 as discussed above. Samsolovic, Rao, and Chatrath, considered alone or in combination, fail to disclose such a combination. Therefore, claim 26 is patentable over the applied references. Claims 30 and 31 ultimately depend from claim 26 and therefore, are patentable over the applied references at least due to their dependency therefrom.

CONCLUSION


In conclusion, the Applicant respectfully submits that claims 1-8, 10-23, and 26-32 are patentable and the rejections and objections made by the Examiner in the Office Action have been traversed and should be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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